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REMARKS

According to the present amendment, claims 77, 78, 80, 82, 84, 85, 88, 90, and 92 are cancelled, the limitations of at least some of which being incorporated into independent claims 76, 79, 83, and 86. The phrase "hard yarn meltspun" to characterize the nonwoven fibers finds basis at page 5, lines 26-28; that the fibers can be made of "polyolefin" finds basis at page 17, lines 3-7. New claims 95 and 96 find basis at page 8, lines 25-28. No new matter is added.

Telephone Interview with Examiner

On October 5, 2004, the Examiner kindly granted Applicants a telephone interview to discuss the outstanding Office Action, issued August 24, 2004, as to the present application. Applicants inquired about the rejection issued under 35 U.S.C. §112, specifically as to which, if any, dependent claim limitations might be incorporated into the independent claims in order to overcome the basis for rejection.

The Examiner indicated that amending the independent claims to contain the limitations of claims 77, 80, 81, and 82, along with an identification of the nature of the polymer used to form the claimed nonwoven layer(s) should be adequate to sufficiently define the claims under 35 U.S.C. §112.

Applicants have amended the claims accordingly.

The Examiner also indicated that the undersigned representative was not listed on the original Power of Attorney, and required that an associate Power of Attorney be filed listing the undersigned as an attorney of record.

An associate Power of Attorney naming the undersigned is submitted on even date herewith.

Claim Objections

Claims 80-82, 87, and 88 were objected to by the Examiner as being in improper dependent form, as being multiple dependent claims that were dependent on multiple dependent claims.

Claim 81 was objected to for indicating that the average fiber size was "less than about 75 μm^2 ". The Examiner correctly indicated that the fiber size should have been expressed as a "cross-section", which has been addressed in the presently submitted amendment.

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Applicants believe that the presently submitted amendment moots these bases for objection.

Rejection under 35 U.S.C. §112

Claims 76, 79, 83, and 86 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite for reciting only physical properties such as basis weight, grab tensile strength, Frazier permeability and hydrostatic head.

Claims 77, 78, 80-82, 84, 85, and 87-94 stand rejected as being dependent upon indefinite claims.

While Applicants do not agree with the legal basis for the formal rejection issued by the Examiner, in order to advance prosecution in the present application, Applicants have amended the independent claims to incorporate certain limitations reflecting those in some of the dependent claims, in accordance with the Examiner's indication during the telephone interview, discussed *supra*. Reconsideration and withdrawal of the rejection is requested.

Rejection under 35 U.S.C. §102/103

Claims 76-79, 81-86, 88-91, 93, and 94 stand rejected under 35 U.S.C. §102(e) as anticipated by, or in the alternative under 35 U.S.C. §103(a) as obvious over Ofosu et al. (U.S. Patent No. 6,268,302). Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

In a first embodiment, the present invention is directed to a thermally bonded nonwoven fabric comprising multiple nonwoven layers of hard yarn meltspun polyolefin fibers, and at least one nonwoven polyolefin layer comprising fibers having cross-sectional areas of less than about $75 \mu\text{m}^2$, and wherein at least one hard yarn meltspun nonwoven layer has a repellent fluorocarbon finish, said fabric having a basis weight between about 13-125 g/m^2 , a grab tensile strength in both the machine- and cross-directions at least about 1 $\text{N}/(\text{g/m}^2)$, normalized for basis weight, and a combination of Frazier permeability at least about 10 and up to about $30 \text{ m}^3/\text{min-m}^2$ and hydrostatic head between about 75 and 99 cm.

Ofosu et al. disclose that an object of their invention is to "provide a spunbond polyolefin nonwoven fabric or web which is softer than those conventionally produced but which has comparable strength characteristics" (col. 1, lines 36-40), which is obtained by making a "multilayer laminate of a first web of high melt flow polymer

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fibers and a second web of low melt flow polymer fibers" (col. 1, lines 41-45). In particular, the web of low melt flow polymer fibers is made from a polyolefin polymer with a melt flow rate below 50 g/10 min; and the web of high melt flow polymer fibers is made from a polyolefin with a melt flow rate above 50 g/10 min, both as measured at 230° C (col. 1, lines 45-50; col. 2, lines 1-8). Thus, the multiple spunbond layers of the Ofosu et al. fabrics are distinctly different in strength and softness.

Ofosu et al. suggest that their fabric can have an intermediate meltblown web or film layer disposed between the different spunbond layers (col. 8, lines 47-51).

As recognized by the Examiner, Ofosu et al. fail to disclose or suggest any particular combination of barrier properties (i.e. Frazier permeability and hydrostatic head) that might be obtainable by their fabric.

In contrast, according to the present claims, a thermally bonded nonwoven fabric is provided which comprises multiple nonwoven layers of hard yarn meltspun polyolefin fibers, and at least one nonwoven polyolefin layer comprising fibers having cross-sectional areas of less than about 75 μm^2 (claim 76). The multiple nonwoven layers of hard yarn meltspun polyolefin fibers, which can be spunbond fibers (claim 81) can be essentially the same, but for the fact that at least one layer has a repellent fluorocarbon finish (claim 76).

The skilled artisan would not have been motivated to modify the Ofosu et al. fabric to include multiple nonwoven layers of hard yarn meltspun polyolefin fibers, since to do so would negatively affect the softness of the Ofosu et al. fabric, and therefore destroy the function of the Ofosu et al. invention.

As such, Ofosu et al. cannot be said to either anticipate or establish a *prima facie* case of obviousness as to the present claims. Withdrawal of the rejection is requested.

Rejection under 35 U.S.C. §102/103

Claims 80, 87, and 92 stand rejected under 35 U.S.C. §103(a) as obvious over Ofosu et al. in view of McAmish et al. (U.S. Patent No. 4,908,163). Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

Applicants reiterate their comments in traverse of application of the Ofosu et al. reference.

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McAmish et al. is relied upon by the Examiner for the proposition that it would have been obvious at the time of the invention to modify the Ofosu et al. fabric with a fluorochemical to enhance repellency.

However, McAmish et al. fails to address the underlying deficiency of Ofosu et al. as to the present claims, as set forth above. There is nothing within the McAmish et al. disclosure that would motivate the skilled artisan to add a second nonwoven layer of hard yarn meltspun polyolefin fibers to the Ofosu et al. fabric. Further, even if McAmish et al. provided support for such an addition, the skilled artisan would not have been motivated to make such an addition to Ofosu et al., since to do so would destroy the function of the Ofosu et al. invention.

Withdrawal of the rejection for failure to establish a *prima facie* case of obviousness is requested.

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In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



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Dated: 10/25/04

TWS:fgl

Enclosure: Power of Attorney